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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

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11 GUILLERMO TRUJILLO CRUZ,

12 Plaintiff,

13 v.

14 SANTORO, *et al.*,

15 Defendants.

Case No. 1:20-cv-01038-DAD-BAM (PC)

Appeal No. 20-17444

ORDER DENYING PLAINTIFF’S SECOND
MOTION TO PROCEED *IN FORMA*
PAUPERIS ON APPEAL AS MOOT

(ECF No. 26)

16
17 Plaintiff Guillermo Trujillo Cruz (“Plaintiff”), is a state prisoner who proceeded *pro se* in
18 this civil rights action pursuant to 42 U.S.C. § 1983.

19 On November 18, 2020, the District Judge dismissed this action without prejudice due to
20 Plaintiff’s failure to pay the filing fee and failure to obey a Court order. (ECF No. 15.) Judgment
21 was entered accordingly the same date. (ECF No. 16.)

22 On December 15, 2020, Plaintiff filed a notice of appeal to the Ninth Circuit Court of
23 Appeals. (ECF No. 17.) On February 16, 2021, the Ninth Circuit issued an order dismissing the
24 appeal. (ECF No. 20.) The Ninth Circuit issued its mandate on March 11, 2021. (ECF No. 23.)

25 On June 14, 2021, Plaintiff filed a motion requesting a form for leave to appeal *in forma*
26 *pauperis*, which the Court construed as a motion to proceed *in forma pauperis* on appeal. (ECF
27 No. 24.) The motion was denied as moot. (ECF No. 25.)

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1 Currently before the Court is Plaintiff's motion requesting to proceed in this case and for
2 the Court to provide him with a form to file an appeal, filed June 30, 2021. (ECF No. 26.)
3 Plaintiff argues that he should be permitted to proceed with his appeal despite his inability to pay
4 the filing fee. (*Id.*)

5 As stated in the Court's prior order, Plaintiff's appeal was dismissed by the Ninth Circuit
6 on February 16, 2021, and the mandate was issued on March 11, 2021. Therefore, there is no
7 pending appeal in this action. Contrary to Plaintiff's argument, this is not because he was not
8 provided with a particular form by the Court. Plaintiff's appeal was appropriately processed to
9 the Ninth Circuit, and his appeal was dismissed by the Ninth Circuit "[b]ecause the appeal [was]
10 so insubstantial as to not warrant further review," not because Plaintiff failed to pay the filing fee.
11 (ECF No. 20.) **Plaintiff is warned that further motions of this nature will be summarily**
12 **denied.**

13 Accordingly, Plaintiff's second motion to proceed *in forma pauperis* on appeal, (ECF No.
14 26), is HEREBY DENIED as moot. This action remains closed.

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16 IT IS SO ORDERED.

17 Dated: July 1, 2021

18 /s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE
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